THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 3881 OF 1995

Date: 27.03.2006

Between:

C. Omprakash and three others.

… Petitioner

and

Sri Venkateswara Cooperative Sugar Factory Ltd and three others.

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… Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 3881OF 1995

ORDER:

Questioning the action of the 1st respondent-Cooperative Sugar Factory in not regularizing the services of the petitioners while regularizing the services of their juniors, the present writ petition is filed.

2. Sri K. Rajannma, learned Counsel appearing on behalf of the 1st respondent, would take a preliminary objection that since the 1st respondent is not an instrumentality of the state within the meaning of Article 12 of the Constitution of India, the writ petition as filed is not maintainable. Learned Counsel would refer to paragraph 2 of the counter affidavit wherein reference is made to a Full

Bench judgment of this Court in **Sri Konaseema Co-operative Central Bank Ltd. Vs. N. Seetharamaraju,** in support of his contention that a society registered under the Cooperative Societies Act is not a state within the meaning of Article 12 of the Constitution of India and as such writ petition would not lie against such a society. Learned Counsel would also place reliance on **A. Subrahmanyam Naidu Vs. Government of Andhra Pradesh** in this regard.

3. Sri Challa Kodandaram, learned Counsel for the petitioner on the other hand would place reliance on the Full Bench judgment of the Allahabad High Court in **Vijay Behari Srivastava Vs. U.P. Postal Primary Cooperative Bank Ltd**. Even in the said judgment it has been held that for a society to be an authority under Article 12, it is required to be financially, functionally and administratively dominated by or under the control of the Government and that if such factors are missing, the mere fact that the control is regulatory of a society created or recognized under an Act would not make such a society, a State or other authority as contemplated under Article 12 of the Constitution of India. In the absence of any plea in the affidavit filed in support of the writ petition that the 1st respondent society is financially, functionally or administratively dominated by or under the control of the state Government the writ petition is liable to be dismissed on the ground that it is not a state within the meaning of Article 12 of the Constitution of India. The writ petition fails and is accordingly dismissed.

Date: 27.03.2006

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RAMESH RANGANATHAN, J

MRKR